IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7596 of 1988

For Approval and Signature:

Hon'ble CHIEF JUSTICE MR DM DHARMADHIKARI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

TARAMATI WD/O PRANLAL SHAH

Versus

COLLECTOR OF DIST KUTCH

Appearance:

MR JIVANLAL G SHAH for Petitioner

Mrs. Manisha Lavkumar, Ld. AGP for Respondent No. 1

NOTICE SERVED for Respondent No. 3

CORAM : CHIEF JUSTICE MR DM DHARMADHIKARI

Date of decision: 18/02/2000

ORAL JUDGEMENT

This petition was filed only on an apprehension that the civil authorities and the police authorities (respondents) were contemplating an action of demolition

of the construction of the petitioner on a piece of land, which she claims to be in possession under a lease granted by the Bhuj Municipality. This Court on 16-11-1988 granted ad-interim relief in terms of relief clause No.VII, thereby the respondents were restrained from pulling down her construction, or removal of her properties from any of part of the land shown in the map at Annexure-C.

The petition is pending in the court since year 1988, but the respondents have not filed any reply or counter affidavit. In the circumstances, as the facts mentioned in the petition have not been controverted, nor the allegations, the petition is allowed and the interim relief granted will be treated as the final relief.

Learned counsel appearing for the State submits that, as the Bhuj Municipality has not been made a party, this Court should clarify that the powers of the Municipality to remove any alleged encroachment or unauthorised construction of the land should be kept intact. The prayer appears to be reasonable. The petition is allowed, but since the Bhuj Municipality through whom the petitioner claims to have obtained possession of the land is not a party, the order in this petition shall not operate against Bhuj Municipality. Rule made absolute to the aforesaid extent. No costs.

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